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## IN DEFENSE OF THE A.C.L.U.

New York City

A slur against the American Civil Liberties Union in a recent editorial ["Hanging Together," *The Nation*, Nov. 7] requires a response. The editorial refers to "a controversial secret meeting" between lobbyists for the A.C.L.U. dealing with the names-of-agents legislation and representatives of the Central Intelligence Agency. This characterization of the meeting is warranted only in the sense that the A.C.L.U. does not publish a calendar of its meetings with public officials or private individuals, any more than *The Nation* publishes a calendar of the meetings held by its editors.

As the editorial indicates, the A.C.L.U. opposes any legislation against the naming of agents. When it became virtually certain (*The Nation* uses the word "probable," though this is too weak) that such legislation would be adopted, the A.C.L.U. worked to narrow its reach. That involved a meeting with representatives of the C.I.A. and an untold number of meetings with members of Congress. Unlike others who may be dismayed by this legislation, the A.C.L.U. does more than wring its hands. It actually lobbies. As anyone familiar with that process knows, it usually involves talking to one's antagonists.

Labeling this a "controversial secret meeting" and, thereby, implying that it was furtive and discreditable is bad enough. To make matters worse, however, the editorial goes on to say that it "called to mind the controversy that surrounded a meeting in 1939 of Morris Ernst, counsel for the A.C.L.U., and Martin Dies, chairman of the House Special Committee on Un-American Activities." That analogy is outrageous. It is not certain what transpired between Ernst and Dies, but it appears that they agreed that if the A.C.L.U. cleaned its own house of Communists, the committee would let the A.C.L.U. alone. If such an agreement was reached, it was a betrayal of the principles of the A.C.L.U. It casts doubt on the bona fides of those who helped to remove Elizabeth Gurley Flynn from the A.C.L.U. board a year later on the ostensible ground that, in the wake of the Hitler-Stalin pact, she and other Communists obstructed the A.C.L.U.'s defense of those who did not follow the Communist Party line. (In my view, that would have been very good ground for opposing Flynn's election to the A.C.L.U. board, but not a basis for overturning the results of an election.)

If Ernst had met with Dies in 1939 to work out an agreement for H.S.C.U.A. to observe the principles of due process in its hearings and, simultaneously, to reiterate the A.C.L.U.'s objection to the mandate of the committee, he would have acted legitimately. Under such circumstances, an analogy to the

meeting with the C.I.A. on the names-of-agents bill might have been appropriate. As it stands, the analogy is slanderous.

*The Nation* acknowledges that the A.C.L.U. "is no longer the organization it was during the 1950s." It is important to bear in mind that most of what is known about the misdeeds of A.C.L.U. officials such as Ernst was unearthed and publicized by the A.C.L.U. itself. Many other organizations did similar things during the 1950s, but I am not aware of any other that exposed its own wrongdoing. When drawing distinctions between the A.C.L.U. of the past two decades and the organization as it was previously, this is an essential point to recall.

One final comment: *The Nation* suggests that "the A.C.L.U. and other organizations in the business of defending civil liberties" meet to "thrash out the tactical issues that threaten to divide us." It has been a few years since I was in a position to speak for the A.C.L.U., but, were I now in such a position, I would not see much purpose to such a meeting. The reason is that "other organizations in the business of defending civil liberties" have not seen fit to devote any discernible effort to lobbying Congress about the names-of-agents bill or about any of the other critical matters involving the intelligence agencies that are coming up. The contribution of such organizations, as far as I am able to tell, has been restricted to maligning the A.C.L.U. For my part, I favor discussing lobbying tactics with those actually doing something about pernicious legislation, not with those dispensing slander from the sidelines.

Aryeh Neier

## REPLY

*Critics of the American Civil Liberties Union's meeting with the Central Intelligence Agency regard it as "secret" in the sense that representatives of other organizations with whom the A.C.L.U. was previously exchanging ideas on how best to oppose the names-of-agents legislation were not apprised of it; that is also why it became controversial. But as we were careful to point out in our editorial, "the issue now, however, is not—or should not be—the performance of the A.C.L.U., which... has been in the forefront of the fight to protect the First Amendment." We also pointed out that "an absolute precondition" for a debate on matters of tactics and strategy in the months ahead "is that we keep in sight the source and the nature of the danger.... In this climate, there is a compelling need to recognize that the pre-eminent threat to civil liberties today comes not from colleagues with the wrong tactics but from an Administration and a Congress that are poised to do fundamental damage to the Bill of Rights."*

—The Editors

Pelham, N.Y.

"Hanging Together" correctly depicts the names-of-agents bill as threatening "fundamental damage to the Bill of Rights." It is for this reason that the Center for National Security Studies, ably led and represented by Morton Halperin and Jerry Berman, has for well over a year led the fight against it. The center, which is jointly sponsored by the Fund for Peace and the American Civil Liberties Union, has been virtually the only liberal group at work on Capitol Hill on this and other national security issues. Outside suggestions and even criticisms are, therefore, all the more valuable. Your editorial, though, is of little help.

A throwaway line like "controversial secret meeting with representatives of the C.I.A." doesn't get uttered in jest, or in *The Nation*, without knowledge of how it will be read. Especially since the A.C.L.U. meeting in 1939 with Martin Dies is recalled, it would have been better if the editorial had said plainly whatever it is you meant.

The editorial goes on to remark that three important questions need to be "carefully addressed," and then leaves readers waiting for answers. One question was whether liberals should sometimes work for the "lesser evil." However *The Nation* may eventually answer, I can say that the center's advisory board, of which I am chairman, has, along with Halperin and Berman, confronted that issue for months, but in a more helpful formulation: how can we keep the damage to the Constitution to a minimum during this present spell of Congressional mania? In the process, the center's staff has made unprecedentedly painstaking efforts to keep other liberal groups informed, stage by stage, of its positions and the reasons for them. Therefore, I defy you to find any evidence to support the charge made, by selective quotation, that the A.C.L.U. has tried to "distance" itself from "least popular victims."

And for the future, we can only hope that *The Nation* will avoid, as well as caution against, bad-faith accusations among liberals, even while we remain committed to open and critical discussions among ourselves.

Leslie Dunbar

## REPLY

As we indicated in our editorial, the answers to the questions we have raised are not easy ones, and will require focused debate and consideration in the weeks and months ahead. Leslie Dunbar's request that we document charges against the American Civil Liberties Union should be directed to the editor of *Covert Action Information Bulletin*, who made them, rather than to *The Nation*, which reported them.

—The Editors